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IN THE

SUPREME COURT OF THE UNITED STATES.

HOLDEN BROWN, GEORGE HOUSE and
GEORGE WOLFF et al.,
Petitioners,

vs.

STERLING ALUMINUM PRODUCTS CORPORATION,
a Missouri Corporation,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Eighth Circuit.

JEROME J. DUFF,
Suite 1155—818 Olive Street,
St. Louis, Missouri 63101,
314 MAin 1-3833,
Attorney for Petitioners.

ST. LOUIS LAW PRINTING CO., INC., 415 N. Eighth Street. CEntral 1-4477.

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To the United States Court of Appeals for the Eighth Circuit.

Petitioners, Holden, Brown, George House and George Wolff, in behalf of themselves and as a bargaining committee for and in behalf of the molder and foundry employees of the respondent corporation, pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit, entered in the above entitled cause on September 12th, 1966 and affirmed by an Order denying Petitioners' petition for rehearing entered on October 7th, 1966.

OPINIONS BELOW.

The opinion of the District Court is reported in 246 F. Supp. 279. The opinion of the Eighth Circuit Court of Appeals is reported in 365 F. 2d 651. A copy of that opinion is appended to this petition as Appendix "A" (infra, pages 7 to 18).

JURISDICTION.

The judgment of the Court of Appeals was entered on September 12th, 1966. A timely petition for rehearing was filed and is appended to this petition as Appendix "B" (infra, pages 19 to 25). This petition for rehearing was denied on October 7th, 1966. The jurisdiction of this Court is invoked under the act of June 25, 1948, c. 646 (1), 62 Stat. 928 (1); U. S. C., Sec. 1254 (1).

QUESTIONS PRESENTED.

1. When a labor union abandons a contract grievance can the involved aggrieved employees obtain specific federal court enforcement of a broad form, mandatory labor agreement Grievance Procedure?

2. If the labor agreement Grievance Procedure is all encompassing and mandatory but does not specifically provide for "arbitration" should the federal court fashion a remedy to compel the parties to "diligently and in good faith explore some other method for the final disposition" of their grievance as is literally required by the labor agreement?

STATEMENT OF THE CASE.

Petitioners had been employed by the respondent corporation, an interstate manufacturer, at a manufacturing plant in St. Charles, Missouri. Petitioners were all members of the International Molders and Foundry Workers Union which was exclusive bargaining representative for petitioners at the St. Charles, Missouri plant. A labor agreement was in effect between the union and respondent corporation from March 1, 1961 to February 28, 1963. The employer terminated the employment of petitioners, closed down and re-located its St. Charles plant on and immediately after February 28th, 1963.

Upon being advised of the Company's unilateral decision to terminate the agreement in order for the Company to re-locate its St. Charles operations to Malden, Missouri, the petitioners, as members of a shop committee, attempted to bargain with the Company respecting its intention to relocate its plant. This attempt to bargain was before the agreement had expired, but the Company refused to so bargain (Opinion of 8th Cir.—Appendix "A", page 9).

The Union filed a suit against the Company ten months after the plant moved. The suit was never prosecuted and was dismissed by a stipulation between the Company and the Union at the cost of the Union (8th Cir. opinion, Appendix "A", pages 9 and 10).

In February, 1965, these petitioners instituted this action in the federal district court. These nominal petitioners, House, Brown and Wolff, are the "shop committee" designated throughout the Grievance Procedure Article of the labor agreement (R. 15, 16 and 17).

The district court below dismissed the Complaint. The Eighth Circuit Court of Appeals affirmed the ruling of the district court. The Court of Appeals affirmed the dismissal for three reasons:

1. The union alone has the right to bargain with management on the broad policy issues framed by the contract grievances described in this case (Appendix "A", page 14).

2. The Grievance Procedure machinery of this labor agreement does not specifically require arbitration (Appendix "A", page 17).

3. The subject matter of this dispute is not within the framework of the Grievance machinery of the labor agreement (Appendix "A", page 18).

REASONS FOR GRANTING THE WRIT.

Taking a carefully calculated risk of over-simplification and understatement these petitioners state that the mandate of this Court in the case of Republic Steel v. Maddox, 379 U. S. 650, 85 S. Ct. 614 (1965), has been completely misinterpreted by the Court of Appeals below. The petitioners' union refused to press the claim of these members-employees when it perfunctorily abandoned the friendly lawsuit which it filed against the company. When the petitioners realized their plight they sought redress in the only form and forum which the national labor laws allowed. They filed this suit in a federal district court to enforce the terms of an all-encompassing and mandatory grievance procedure. They have attempted to adhere to every requirement set out in Maddox.

Without a trial or a hearing these petitioners are next told that the type of grievance which they assert is in some mysterious way excluded from the grievance procedure machinery of their labor agreement. This incredible finding is made in spite of a grievance clause which "shall" (the word is used eight times, R. 15 and 16) be utilized to attempt a satisfactory adjustment and/or settlement of "any difference" or "any controversy or grievance that may arise from time to time" (R. 15 and 16). There is not even a hint at excluding this dispute, or any other, from the operation of this grievance machinery.

The Court of Appeals below further refused to act in behalf of these petitioners because the grievance machinery does not contain the word "arbitration" which the Court went on to say was the necessary "predicate to granting the kind of relief plaintiffs are seeking under Sec. 301. See, General Drivers, etc., Union No. 89 v. Riss and Company, Inc., 372 U. S. 517 (1963)." Petitioners respectfully submit that the holding of this Court in Drivers Union v. Riss Co., not only does not support the posi-

tion of the Eighth Circuit Court of Appeals in this case it is actually in total support of the petitioners' position.

These petitioners stand before this Court stripped of every benefit which the labor law doctrines of this country propose to offer—they have lost their jobs, their plant and tools, their union recognition, their labor agreement and, finally, their constitutional right to be heard to assert their position in response to the series of unilateral decisions (the company's to re-locate, the union's to abandon them and the courts' below to summarily dismiss their litigation) all of which brings them to this Court. They are entitled to the relief which they seek in their Complaint.[1] The decisions below are not in keeping, in letter or in spirit, with the uniform body of federal common law of labor relations.

CONCLUSION.

For the foregoing reasons, the Writ of Certiorari should be granted.

Respectfully submitted,

JEROME J. DUFF,
Suite 1155—818 Olive Street,
St. Louis, Missouri 63101,
314-MAin 1-3833,
Attorney for Petitioners.

Certificate of Service.

State of Missouri, } ss.
City of St. Louis. }

I, Jerome J. Duff, counsel for the Petitioners herein, and attorney of record for the Petitioners in the Courts below,

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[1] The Court will note that this case is companion in some respects to the case of Woody, et al., v. Sterling, etc., et al., 365 F. 2d 448 (8th Cir. 1966) (See Appendix "B", page 26, ft. note No. 3). A petition for Writ of Certiorari will be filed in the Woody case within three days of the filing of this petition.

depose that on the 4 day of January, 1967, I served four copies of the foregoing Petition for Writ of Certiorari on the Respondent, as required by Rule 33, Paragraph 1, by personally delivering said copies hereof to Messrs. Bartlett, Stix and Bartlett, Attorneys of Record for the Respondent, in care of their offices, 408 Pine Street, St. Louis, Missouri 63101.

Jerome J. Duff,
Member of the Bar of the
United States Supreme Court.

APPENDIX.